



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: April 26, 2004 REPORT NO. 04-088

ATTENTION: Natural Resources and Culture Committee
Agenda of April 28, 2004

SUBJECT: Reconsideration of an unsolicited proposal for development of a
baseball and golf learning center at the closed South Chollas
Landfill

SUMMARY

Issue - Should the City Manager enter into an Exclusive Negotiation Agreement with Paragon Practice Park, LLC "Paragon" for the development of a baseball and golf learning center at the South Chollas Landfill? Entering into an Exclusive Negotiation Agreement is not consistent with Council Policy 700-10 (Disposition of City-Owned Real Property.)

Manager's Recommendations –

1. Direct staff to enter into Exclusive Negotiation Agreement with Paragon for a period of 90 days if the City Council desires to consider the development of a baseball and learning center as proposed by Paragon.
2. Direct staff to solicit a Request for Proposals if the City Council desires to find the best alternative use for the closed South Chollas Landfill.
3. Direct staff to solicit a Request for Proposals if the City Council desires to have a development similar to a baseball and learning center as proposed by Paragon, but wants to explore maximizing City revenues.

Fiscal Impact - Unknown at this time.

BACKGROUND

South Chollas Landfill

The South Chollas Landfill is located north of Highway 94 and south of College Grove Drive in the Oak Park Community. The Landfill was operated by the City and received

municipal solid waste between 1951 and 1981. The land is owned by the City Water Department and General Fund Departments and is designated park land.

The Environmental Services Department (ESD) maintains the landfill site in compliance with State and Local regulatory requirements. The site contains a network of groundwater monitoring wells and an extensive landfill gas collection system. Currently, the landfill gas (LFG) is collected and burned at two flare stations located on the site. There is an existing landfill gas lease agreement with Applied LNG Technologies to operate the landfill gas system.

In January 2002, Paragon submitted an unsolicited proposal for recreational development on approximately 80 acres of the landfill site. A revised proposal was submitted in June 2002. These proposals are nearly identical to the most recent proposal received in March 2004, proposing a 2-phase development. Phase 1 includes a baseball and golf learning center and Phase 2 includes a six-hole full-length golf course.

At the July 1, 2002, Natural Resources and Culture Committee, the June 2002 proposal was presented for discussion. The concept of entering into an Exclusive Negotiation Agreement (ENA) or solicit Request for Proposals was discussed. At that time, City Manager staff recommended "Take no present action with regards to the Paragon Practice Park, LLC proposal until outstanding issues identified with development of the South Chollas Landfill are addressed. Once the scope of feasible recreational uses is identified, staff recommends returning to this Committee for authorization to issue a Request for Proposals." Committee also discussed Council Policy 700-10 that states "competitive offers for lease or sale shall be solicited from the open market place." The Committee, by a 4 to 1 vote, directed Real Estate Assets Department (READ) staff to begin negotiating an ENA.

On June 24, 2003 City staff received direction from the Mayor and Council regarding the "specific circumstances" for the City to move forward on Paragon's proposal. These conditions were outlined in a letter dated June 25, 2003 and included the following:

1. The City will negotiate exclusively with Paragon for 120 days, and if a mutually acceptable transaction has not been successfully negotiated, the City will issue an RFQ for the property.
2. Paragon must agree to fully indemnify the City, as previously recommended by the City Attorney, including for potential contract interference.
3. Paragon must pay a \$10,000 non-refundable ENA fee and agree to fund an independent consultant to identify the complete scope of compatible recreational uses for South Chollas (estimated at \$50,000). Neither cost may be credited against future rental payments.
4. The City will not renegotiate the existing gas extraction contracts at this time, and instead focus exclusively on the recreational uses.
5. Any future lease with Paragon will include, among other things, Paragon agreeing to fund the following improvements associated with the landfill:
 - a. Slope stabilization,

- b. Repairs to the gas extraction system due to settlement,
- c. Liner for Chollas Lake, and
- d. Landscaping along College Grove Drive.

In a letter dated June 30, 2003, Paragon prepared a detailed response to each of the conditions and identified that the circumstances requested would cost millions of dollars to implement. In a letter dated July 14, 2003, READ notified Paragon that City staff would cease attempts to negotiate an ENA due to their unwillingness to proceed as Council directed.

Since that time the Oak Park Community Council has met with Paragon and requested the City reconsider the Paragon proposal. In December 2003, ESD, READ, staff from Council Districts 4 & 7 and community members met with Paragon and their partners. ESD agreed to evaluate the feasibility of this project.

ESD has retained the services of SCS Engineers, a nationally recognized consulting firm in the solid waste industry. SCS Engineers has reviewed Paragon's proposal and has submitted their comments to ESD in a letter dated April 19, 2004. SCS Engineers recommends "Paragon's project would be an appropriate post-closure use. SCS recommends that the City continue to explore the project's development with Paragon." SCS also states in their recommendation, "It will be very important for both parties to fully define responsibilities for meeting LEA (Local Enforcement Agency), Regional Water Quality Control Board, or other agency requirements resulting from the project's development."

ESD staff has since met on several occasions with Paragon. Aspects of Paragon's proposal include:

1. One of Paragon's partners, Ron Brookshire, is very experienced and knowledgeable in the challenges of developing on landfills. He has intimate knowledge of the South Chollas Landfill having been the contractor hired to install the current LFG control system.
2. The golf and baseball learning center design incorporates engineering controls to minimize impacts to the landfill.
3. Paragon has agreed to indemnify and hold harmless the City from any claims arising out of the negotiations for the lease as well as standard indemnification for any acts or omissions on Paragon's part arising out of the development and/or operation at the site.
4. Paragon has agreed to either maintain the LFG within their lease hold or provide access to ALT for operations and maintenance of the LFG system.
5. Paragon's proposal has strong community support and approval from the Oak Park Community Council and the Chollas Lake Recreation Council.

Conditions For Future Development

1. Developer shall pay all costs associated with obtaining approval from the Solid Waste Local Enforcement Agency, Regional Quality Control Board and any

other applicable regulatory agencies. In order to obtain their regulatory approval, the developer must prepare all required submittals including detailed engineering drawings, a site drainage plan, Community Health and Safety Plan, Post Closure Maintenance Plan and a Site Security Plan.

2. Consideration and placement of approximately 200,000 cubic yards of stockpiled dirt currently on the landfill site. This material must be placed on the southerly and easterly slopes of the landfill. This will also require installation of drainage control systems and revegetation of the slopes.
3. Recognize that sensitive habitat and California Gnatcatchers have been identified on the south easterly slopes. Potential impacts and costs associated with development on or near this sensitive community must be addressed.
4. Project must be compatible with the current or any future LFG collection systems. Developer must obtain an agreement for co-existence with the current LFG leaseholder. This Agreement must be approved by the City.
5. Developer shall be responsible for post-closure maintenance and management of the landfill within proposed leased area.
6. Project must be compatible with "designated park land" use.
7. Developer shall be responsible for all costs associated with obtaining and complying with all permitting and land-use requirements.
8. Developer shall be responsible for payment of Real Estate Assets Department transaction processing fees approved by Council July 1, 2003.

Respectfully submitted,

Elmer L. Heap Jr.
Environmental Services Director

Approved: Richard G. Mendes
Deputy City Manager

EH/SMC